

**MINUTES  
IOWA COMPREHENSIVE PETROLEUM UNDERGROUND STORAGE TANK FUND  
PROGRAM**

**October 26, 2006**

**COMMISSIONER'S CONFERENCE ROOM  
IOWA INSURANCE DIVISION, 330 EAST MAPLE STREET  
DES MOINES, IOWA**

Susan Voss, Chairperson, called the Iowa UST Board meeting to order at 10:04 A.M. A quorum was present. Roll call was taken with the following Board members present:

Cathy Rottinghaus (via telephone)  
Delia Meier  
Liz Christiansen (for Jeffrey Vonk)  
Stephen Larson (for Michael Fitzgerald)  
Doug Beech  
Jim Holcomb  
Jeff Robinson

Also present were:

David Steward, Attorney General's Office  
Scott Scheidel, Program Administrator  
Lacey Skalicky, Program Administrator's Office  
James Gastineau, Program Administrator's Office  
Tom Norris, Petroleum Marketers Management Insurance Company

**APPROVAL OF PRIOR BOARD MINUTES**

The minutes from the September 28, 2006 meeting were reviewed. Mr. Holcomb moved to approve the minutes, Ms. Christiansen seconded the motion, and by a vote of 6-0, the minutes were approved.

**CLOSED SESSION**

Ms. Voss noted there were no matters dealing with litigation for discussion in closed session pursuant to Iowa Code Chapter 21. Therefore no closed session convened.

## **PUBLIC COMMENT**

Ms. Voss requested any comments from the public present. There were no comments at this time.

## **BOARD ISSUES**

### **A. LPT Proposal from PMMIC**

Mr. Scheidel stated that the Board had been in discussions regarding the concept of entering into a loss portfolio transfer (LPT) with PMMIC for several select UST sites' claims that were shared between the two entities due to new and old releases. Mr. Scheidel reminded the Board that they had requested a formal proposal from PMMIC to review and consider. Tom Norris from the Petroleum Marketers Management Insurance Company (PMMIC) was in attendance to discuss with Board members the LPT proposal that had been distributed to each Board member earlier in the week via electronic mail. He pointed out that the limited number of claims proposed for transfer had been reviewed and analyzed by their respective groundwater professional firms to project the best estimate of costs required to bring each site to closure. In addition, Board and PMMIC-commissioned third party reviewers had completed their assessments of the claim files to determine the percentage of each site's contamination that would fall under a site's Fund benefit claim and its PMMIC insurance claim. These analyses, as well as other factors, were used to arrive at a proposed transfer amount.

Mr. Norris noted that the proposed transfer amount was calculated according to a spreadsheet that was also distributed to the Board members. He stated the calculations did not include any type of administrative loads that were commonplace in similar type transactions. In addition, he stated the values within the calculations were agreed upon between PMMIC and the Fund Administrator's Office during their negotiations. He addressed the proposed transfer amount, which was 1.9 percent above the cost of work, as currently assessed by the groundwater professionals, stating that it was understandable for the Board to question why should they pay more now for work that might cost less over time. He explained that the development factor on the sites from six years prior had reached approximately 45 percent, meaning that work to be completed at a site six years ago that was expected to cost \$100 would actually cost \$145 today. In addition, he explained that the onset of RBCA had already occurred prior to six years ago; therefore it did not affect the development factor. Also, he said that the transfer amount proposed represented approximately 4.4 percent of the Board's 2007 budgeted expenditures, while the number of claims to be closed for the Board represented 7.4 percent of the Board's goal for the year. Lastly, Mr. Norris noted that the proposed transfer amount was \$220,000 less than the current Board claim reserves for those sites.

Mr. Norris stressed the simplification of the administration of the claims involved. It would save both parties staff time by having one entity addressing the claims on its behalf. The Fund Administrator's staff would have more time to address 100% UST Fund claims. He stated also that PMMIC may have more leverage to move their claimants through the corrective action process with the Department of Natural Resources (DNR), as PMMIC manages the insurance conditions and compliance of their insured sites.

Mr. Norris addressed the claimant's perspective of such a transfer stating that claimants would likely appreciate the simplification of the funding by working with one entity rather than two. Additionally, he explained that claimants may be assured that PMMIC funds will be spent on contamination concerns at their insured sites, where history proved that they may not be assured that UST Funds will remain under the control of the UST Fund Board for the same purpose, given Legislative transfers.

Mr. Norris stated that the proposal was supported by the Petroleum Marketers and Convenience Stores of Iowa (PMCI). And he explained that the Board's previous concern that claimants should be aware that claims represented by this transfer would not be subject to the protections offered by the State of Iowa Guaranty Fund, and therefore he stated that could be added to the claimant waiver document for the purpose of full disclosure. Mr. Norris pointed out that PMMIC may make a profit on the proposed transfer, however the simplified administration and minimized incidence of third party claims on the sites was a better motivator from PMMIC's standpoint. Finally he suggested that the cost to close the claims involved may go down after the transfer based on a variety of unknown factors, however the cost to close the same claims may also go up based on the same variety of unknown factors. And with regard to the ongoing discussions among PMMIC, the Fund Administrator, DNR and other stakeholders to possibly recalibrate the RBCA software for the assessment of sites, Mr. Norris explained that the Fund Administrator's staff had reviewed the proposed transfer sites specifically to project any impact from such changes on those sites' conditions. Any potential impact was determined to be negligible.

Mr. Norris summarized to the Board that PMMIC staff was uniquely qualified to address the proposed transfer sites in a manner that represented the best interest for all parties involved based on their historical experience and relationships. Mr. Norris welcomed questions from Board members. Mr. Holcomb inquired whether PMMIC had been a mutual company. Mr. Norris explained that PMMIC was formerly a mutual company that demutualized approximately one year ago.

Ms. Voss appreciated Mr. Norris' remarks regarding the State Guaranty Fund, and requested that they definitely include such language within their documentation for clients. Mr. Steward stated that the Fund Administrator's Office had a claimant agreement for each claimant involved in the transfer, in addition to the PMMIC agreements with their clients. He clarified that the agreement between the Board and PMMIC, as specifically stated within, hinged upon the execution and attachment of each claimant agreement.

Mr. Beech inquired about the practicability of not bidding the transfer and whether or not that was addressed within the proposed agreement. Mr. Steward stated it was included and the Board's reasons for not bidding out the proposed transfer of the select sites were also included.

Mr. Scheidel asked Mr. Norris whether the tax contemplated reflected the net effect of the transaction over the life of the claims or just the gross receipt of the transfer amount in year one. Mr. Scheidel clarified the question by asking if the claim expenses incurred in future years and the effect on those subsequent years' taxes were contemplated. Mr. Norris indicated he was not certain, but thought it just reflected the gross receipt amount as income only.

Mr. Holcomb asked what would happen if PMMIC became insolvent before the resolution of the proposed transfer claims, if the State Guaranty Fund was not available to the claimants. Mr. Scheidel stated that the State Guaranty Fund was not currently available to UST Fund claimants; however they did have potential legislative redress if the UST Fund ran out of money. He stated the agreements to be signed by the claimants made it clear to them that they may not seek redress from the UST Fund after the transfer.

Mr. Holcomb inquired if the proposed transfer claims could be tracked over time to see how the projected costs settled. Mr. Scheidel explained that he had discussed that idea with Mr. Norris, and received an indication that PMMIC would share basic information with the Board to that end. Mr. Robinson suggested an annual disclosure of such numbers, and Mr. Norris indicated that could be arranged.

Mr. Steward noted that he would make additions to the current proposed agreement including a complete listing of the sites to be transferred and a provision for annual statements from PMMIC, as well as, including language with regard to the State Guaranty Fund within the claimant agreements.

Mr. Holcomb made a motion to authorize the Fund Administrator and Fund Counsel to modify and finalize the proposed agreement for the LPT to present to the Board for final approval at the next Board meeting. Ms. Christiansen seconded the motion.

Mr. Scheidel asked the Board if they had any questions about the proposed transfer amount. He explained to the Board how he came to agree with PMMIC regarding the amount. He stated he did consider the development factor, as well as, the negligible impact of the potential RBCA recalibration. He also considered the risk premium rate used on similar type transactions. He stated most transactions involved a much higher risk premium than the one proposed here. Also, he explained that most similar transactions included administrative loads, which were omitted in this proposal.

After some additional discussion, the Board approved the motion made by a vote of 6-0.

## **B. RBCA Recalibration Update**

Mr. Scheidel provided the Board with a memo discussing the status of the recalibration of RBCA timeline of discussions. He explained that LaDon Jones of Digital Control, Inc. had developed the original RBCA model, and he had recently compiled a list of 30 sites to study the accuracy of the RBCA models for each. The list of sites fell within particular parameters, and none had any corrective action completed since assessment. Using the list he was testing to see how to develop and to apply a recalibrated model on all sites. His initial analysis of the 30 select sites showed that almost all of the RBCA modeled plumes were sizably larger than the actual plumes. Mr. Scheidel stated that if the recalibration of the RBCA model required more development than minor adjustments to the current model, then the Board may have to seek bids for further development. He also stated that PMMIC had agreed to a 50/50 split of the cost of Mr. Jones' consulting fees.

### **C. DNR Update**

Elaine Douskey from the Department of Natural Resources (DNR) discussed the current activities of DNR staff. She stated that members of DNR staff visited the Geological Survey in Iowa City, which proved a valuable resource with regard to understanding the geology involved in the construction of drinking water wells. Also, she stated the Iowa Groundwater Association's Fall Conference was scheduled for November 2<sup>nd</sup>, and the DNR would be presenting data regarding a site in Traer. The Environmental Professionals of Iowa were to hold their Fall Symposium on November 16<sup>th</sup>, where a number of DNR staff were to participate. The Environmental Protection Agency Region X, representing the northwest United States, would be conducting inspector training, and they had requested that Iowa DNR staff attend to discuss their experience with ethanol product compatibility of tanks. RBCA training was scheduled in November also.

Ms. Douskey updated the Board with regard to the DNR database development, which was in place; however they needed to add the inspection portion to it. Also, she stated the DNR staff mailed out their Fall Newsletter, and inspector training was scheduled for November 14<sup>th</sup> at the Botanical Center. She explained that she had met with DNR field office staff twice regarding expectations for year end inspections, as well as, how they will assist with the third party compliance inspections. She stated that the previous Board issue discussed had already provided status of the RBCA recalibration discussions, in which the LUST section of the DNR was involved. The pilot study was due November 13<sup>th</sup>, and the next scheduled RBCA discussion meeting would be November 17<sup>th</sup>.

Ms. Douskey noted that the instance of corrective action meetings was slowing. She reported that the DNR had closed 167 LUST sites during Federal fiscal year 2006, and already they had closed 11 more for fiscal year 2007.

### **PROGRAM BILLINGS**

Mr. Scheidel presented the current monthly billings to the Board for approval.

1. Aon Risk Services .....\$ 112,830.33  
Consulting Services – November 2006 (\$62,750.00)  
Claims Processing Services – November 2006 (\$50,080.33)
2. Attorney General's Office .....\$7,883.97  
Services provided for Underground Storage Tank Program  
September 2006 billing
3. Cathy Rottinghaus.....\$87.72  
Travel to the Annual Strategic Planning Session of the Board  
held in Walcott, Iowa on August 24, 2006

4. Iowa Department of Revenue .....\$4,356.75  
Environmental Protection Charge Collection  
1<sup>st</sup> Q Billing for FY 2007
5. Iowa Department of Inspections & Appeals .....\$2,254.50  
Administrative Hearings on behalf of the Iowa UST Fund  
July – Sept 2006

No additional billings for outside cost recovery counsel were presented by the Attorney General's office for this meeting. On a motion by Ms. Christiansen and a second by Mr. Larson, the billings were approved by a vote of 6-0.

### **MONTHLY ACTIVITY REPORT**

Mr. Scheidel presented to the Board the September activity report, financials and opt-in report that were included in the Board packet for their review. Also a revision of the September monthly activity report was handed out to show updated open and closed claim data. He noted that the four remaining AST claims had been addressed through letters to the applicants requesting documentation, and noticing that the claims would finally be closed.

With regard to financials, Mr. Scheidel stated that he had attended a meeting with a representative from an interim study committee looking for sustainable funding sources for natural resource programs. The representative identified the Environmental Protection Charge collection as one of several potential sources, of which the UST Fund receives \$17 million per year. Because the UST Fund itself is often identified late in session as a one-time funding source for various legislative initiatives, Mr. Scheidel stated that he would attend meetings of this committee regularly to monitor the direction of their discussions and provide information as needed.

### **ATTORNEY GENERAL'S REPORT**

Mr. Steward stated that he had nothing to report to the Board at this time.

### **CLAIM AUTHORITY**

Mr. Gastineau presented the following claim authority requests:

#### **1. Site Registration 8603488 – Scott County, Davenport**

This was a second Board report for a site that remained classified as high risk for soil leaching to protected groundwater source, groundwater vapor, soil leaching to groundwater vapor, and soil vapor for several residential sewers and one non-residential sewer. A large excavation had been completed and had resulted in a significant decline in the groundwater concentration; however it was recommended that the other high risk pathways would require additional excavation. Previous authority to \$310,000 had been granted, of which \$300,250.65 was expended to date.

Additional authority to \$500,000 was requested for a site monitoring report (SMR) and implementation of an excavation. Mr. Gastineau stated that Davenport was one of many communities that refused to grant an ordinance to prevent the installation of drinking water wells within city limits.

A motion to approve the claim authority was submitted by Mr. Holcomb and seconded by Mr. Larson. Approved 6-0.

**2. Site Registration 7910088 – Trust Trucking Inc., Lovilia**

This site was classified high risk for all vapor pathways. An excavation of contaminated soil was the most efficient method of remediation agreed to at the correct action conference. The excavation should reclassify the site to low risk and possibly no further action (NFA). There was some soil beneath a state highway that could not be excavated, but with separation from receptors by clean soil, reclassification was still possible. Previous authority to \$75,000 had been granted, of which \$34,520.00 was expended to date. Additional authority to \$170,000 was requested for a site monitoring report (SMR) and implementation of an excavation.

Ms. Christiansen submitted a motion to approve the claim authority, and Mr. Holcomb seconded the motion. Approved 6-0.

**3. Site Registration 8604780 – Mulgrew Oil Co., Dubuque**

This site was classified high risk for groundwater vapor and low risk for protected groundwater source. The high risk condition was dependent upon actual distance between the site and a residential receptor, and that distance was to be double checked before implementation of corrective action at the site. The site was co-mingled with another IUST Fund eligible site. Chemical oxidation was the selected method to remediate both sites. Previous authority to \$75,000 had been granted, of which \$66,575.62 was expended to date. Additional authority to \$200,000 was requested for a SMR and implementation of the corrective action design report (CADR).

A motion to approve the claim authority was submitted by Mr. Larson and seconded by Mr. Holcomb. Approved 6-0.

**4. Site Registration 8606845 – Molo Oil Company, Waverly**

This site was low risk with on-going free product recovery. Previous authority to \$75,000 had been granted, of which \$84,549.85 was expended to date. Additional authority to \$115,000 was requested for a SMR and free product recovery (FPR).

A motion to approve the claim authority was submitted by Ms. Christiansen and seconded by Mr. Holcomb. Approved 5-0. Ms. Meier abstained from the discussion and the vote.

**5. Site Registration 8912210 – City of Bettendorf**

This site was classified high risk for groundwater ingestion for two drinking water wells and for groundwater to surface water. An in situ oxygen curtain (ISOC) system was recommended to lower the groundwater concentrations. Previous authority to \$75,000 had been granted, of which \$56,777.37 was expended to date. Additional authority to \$200,000 was requested for a SMR, FPR, CADR, and implementation of the CADR.

A motion to approve the claim authority was submitted by Mr. Larson and seconded by Ms. Christiansen. Approved 6-0.

**6. Site Registration 8606320 – J.D. Carpenter Co., Agency**

This was the second Board report for this site that was classified as high risk for groundwater to plastic water lines, soil leaching to a protected groundwater source, and soil vapor for the site's septic system. The site is complicated by intermittent discoveries of free product. In August, it was hoped a County ordinance would be obtained to reclassify this site to low risk after the plastic water line replacement. The County was not willing to adopt an ordinance then, and after a visit with the Wapello County Sanitarian, the County was still unwilling to adopt an ordinance. In previous corrective action meetings, the DNR had indicated that if source contaminant levels were significantly reduced and if the plastic water lines in the actual plume were removed, then they may consider Tier III monitoring and closure even if SSTL's were not met. For source remediation, a chemical oxidation had been proposed. Previous authority to \$225,000 had been granted, of which \$112,380.97 was expended to date. Additional authority to \$350,000 was requested for a CADR and implementation of the CADR and plastic water line replacement.

A motion to approve the claim authority was submitted by Ms. Christiansen and seconded by Mr. Holcomb. The motion was approved 4-2, with Mr. Beech and Ms. Meier dissenting.

**7. Site Registration 8602003 – OJ's Convenience Station, Oxford Junction**

This site was classified as high risk for soil vapor, soil leaching and groundwater to plastic water line pathways. At the corrective action conference, it was agreed to remediate with chemical oxidation in hopes of reclassifying all soil pathways. Plastic water line replacement may or may not be required afterward, depending on the contaminant levels achieved. The plastic water line pathway had the lowest SSTL. Previous authority to \$75,000 had been granted, of which \$68,539.10 was expended to date. Additional authority to \$185,000 was requested for a SMR, CADR, and implementation of the CADR.

A motion to approve the claim authority was submitted by Mr. Larson and seconded by Ms. Christiansen. Approved 6-0.



## **8. Site Registration 8600364 – Jackson County, Maquoketa**

This site was classified as high risk for soil vapor to sewer lines and low risk for soil leaching. Due to migration and a very deep water table, soil gas cleared groundwater vapor to no further action (NFA). The groundwater professional had proposed to excavate approximately 4,500 with 4,000 yards to land farm. Previous authority to \$75,000 had been granted, of which \$53,541.80 was expended to date. Additional authority to \$325,000 was requested for a SMR and implementation of the excavation.

A motion to approve the authority was submitted by Ms. Christiansen and seconded by Mr. Holcomb. Approved 6-0.

## **9. CRPCA 0309-33: Bentley (Neola)**

This state lead project was originally contracted in 2003 to complete additional testing and evaluate corrective action options at a site in Bentley, Iowa. Due to proximity of multiple private water wells and the lack of a public water supply system, corrective action was necessary. A pilot test for an innovative technology had been completed, and a full system implementation was agreed to by DNR. The system would be in operation for 2-3 years.

The original 2-year contract for this project contained the option for four 1-year extensions. The current term was to expire on December 20, 2006, and it was requested that the Board authorize the extension of the contract with the consultant for one year to allow continued activity on the project. No additional funding was requested for the extension.

A motion to approve the 1-year extension of the contract was submitted by Mr. Larson and seconded by Ms. Christiansen. Approved 6-0.

## **10. CRPCA 0309-34: Conesville**

This state lead project was originally contracted in 2003 to complete additional testing and evaluate corrective action options at a site in Conesville, Iowa. Due to low contaminant levels the DNR approved the installation of a carbon filter on the on-site water well combined with continued monitoring in lieu of invasive corrective actions. This site was not Iowa UST Fund eligible, and a lien had been filed against the property for site assessment and other work completed to date. The carbon filter was installed in 2004 and required annual replacement. Long-term monitoring was likely necessary. The original 2-year contract contained the option for four 1-year extensions. The current term was set to expire on December 20, 2006, and it was requested that the Board authorize the extension of the contract with the consultant for one year to allow continued activity on the project. No additional funding was requested for the extension.

Mr. Gastineau explained that the owner of the LUST site and of the on-site well had been notified by DNR Water Supply Department that his well was considered a public water supply well. They requested he complete an application of registration. The Water Supply Department may require site monitoring for the site due to the on-site well's public water supply status. Ms. Douskey inquired if the Water Supply Department's monitoring requirements were comparable

to the LUST Department's monitoring requirements. Mr. Gastineau explained that BTEX would be included in the Water Supply Department's testing requirements.

A motion to approve the extension of the contract was submitted by Mr. Larson and seconded by Ms. Christiansen. Approved 6-0.

#### **CONTRACTS ENTERED INTO SINCE THE SEPTEMBER 28, 2006 BOARD MEETING**

The Board had not entered into any contracts or agreements since the September 28, 2006 Board meeting.

#### **OTHER ISSUES**

Ms. Christiansen inquired if the Renewable Fuels Infrastructure Board had met and whether or not they had requested the Iowa UST Fund Board's consultation to date. Mr. Scheidel stated they had met with the Department of Economic Development representative, and Mr. Scheidel had attended the meeting. He stated he had offered the Board's assistance when needed, however they had not expressed a need as yet.

Mr. Larson inquired if the Board would address the upcoming legislative session at the December meeting before the beginning of legislative session. Mr. Scheidel stated the Board had discussed one initiative at the annual strategic planning session regarding the transfer of the duties associated with the UST Installers and Inspectors Program from the Board to the DNR. Mr. Larson suggested other items be discussed such as diversion of UST funds, and Mr. Beech asked about the water well authority issue. Mr. Scheidel explained the water well authority issue had not gone far last session. Ms. Voss suggested the Board invite legislators to a Board meeting early next session – possibly the chair and ranking members of key committees. Other Board members agreed. Mr. Scheidel suggested inviting a representative from the Governor's Office as well. The next Board meeting was scheduled for Thursday, December 7, 2006 at 10 A.M.

#### **CORRESPONDENCE AND ATTACHMENTS**

Ms. Voss asked if there was any further business, and there being none, Mr. Larson moved to adjourn, and Ms. Rottinghaus seconded the motion. By a vote of 6-0, the Board adjourned at 11:22 A.M.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Scott M. Scheidel". The signature is stylized with a large, looped "S" and a cursive "M".

Scott M. Scheidel  
Administrator